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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

FIONA HARVEY,

Plaintiff,

v.

NETFLIX, INC. and NETFLIX
WORLDWIDE ENTERTAINMENT, LLC,

Defendants.

Case No. 2:24-cv-04744-RGK-AJR

**PLAINTIFF'S APPLICATION
FOR LEAVE TO FILE
DOCUMENTS IN OPPOSITION
TO DEFENDANTS' MOTION
TO STRIKE UNDER SEAL**

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that, pursuant to Local Rule 79-5.2.2(a), Plaintiff
3 Fiona Harvey hereby applies for leave to file under seal Exhibits 1-23 to the
4 Declaration of Fiona Harvey submitted in opposition to Netflix’s Motion to Strike.

5 The common law right of access to judicial proceedings “is not absolute and
6 can be overridden given sufficiently compelling reasons for doing so.” *Foltz v. State*
7 *Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003). Documents may be
8 sealed when the compelling reasons for doing so outweigh the public’s right of
9 access. *EEOC v. Erection Co.*, 900 F.2d 168, 170 (9th Cir. 1990). “The Ninth Circuit
10 has held that compelling reasons exist to keep personal information confidential to
11 protect an individual’s privacy interest and to prevent exposure to harm or identity
12 theft.” *Activision Publ’g, Inc. v. EngineOwning UG*, 2023 WL 2347134, at *1 (C.D.
13 Cal. Feb. 27, 2023) (citing *Foltz*, 331 F.3d at 1134; *Kamakana v. City & Cnty. of*
14 *Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006)); *see also Stiner v. Brookdale Senior*
15 *Living, Inc.*, 2022 WL 1180216, at *2 (N.D. Cal. Mar. 30, 2022) (courts “routinely
16 find compelling reasons to seal personally-identifying information that has minimal
17 relevance to the underlying causes of action”). In addition, “‘compelling reasons’
18 sufficient to outweigh the public’s interest in disclosure and justify sealing court
19 records exist when such ‘court files might have become a vehicle for improper
20 purposes,’ such as the use of records to gratify private spite, promote public scandal,
21 circulate libelous statements, or release trade secrets.” *Kamakana*, 447 F.3d at 1179
22 (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)).

23 Plaintiff respectfully requests that Exhibits 1-23 to the Declaration of Fiona
24 Harvey in Opposition to Netflix’s Motion to Strike (the “Harvey Exhibits”) be filed
25 under seal because the Harvey Exhibits contain personally identifiable and/or private
26 information of third parties which, if made public, and in light of the high-profile
27

1 nature of this dispute, “might [] become a vehicle for improper purposes,” including
2 “to gratify private spite,” “promote public scandal,” and/or “circulate libelous
3 statements.” *See* Declaration of Brian Levenson in Support of Plaintiff’s Application
4 for Leave to File Documents in Opposition to Defendants’ Motion to Strike at ¶¶ 10-
5 11.

6 The Harvey Exhibits comprise a series of online messages received by
7 Plaintiff in which she has been insulted, abused, threatened with rape and encouraged
8 to kill herself. Avoiding the harm that could come from potential retaliation against
9 those who sent the messages, is a compelling reason to seal these documents that
10 outweighs the public’s interest in disclosure. *U.S. Tobacco Coop. Inc. v Big S.*
11 *Wholesale of Virginia, LLC*, 5:13-CV-527-F, 2016 WL 3573929, at *1 (E.D.N.C.
12 2016)(sealing documents that contained “information that could subject certain
13 individuals to physical harm and/or harassment”); *Dish Network LLC v. Sonicview*
14 *USA, Inc.*, No. 09-CV-1553 L (NLS), 2009 WL 2224596, at *7 (S.D. Cal. 2009)
15 (finding that protecting the identities of individuals who had served as confidential
16 informants, and thereby protecting them from being subjected to threats of physical
17 harm, outweighed the presumption of access to court records); *Anonymous v C.I.R.*,
18 127 TC 89, 2006 WL 2572907 (Tax Ct. 2006).

19 Plaintiff previously made an application to file under Exhibits 1-23 of the
20 Harvey Declaration. ECF 38. The Court denied the application without prejudice.
21 ECF 58. In doing so, the Court stated, “While the Court agrees that any identifying
22 information of third parties should be filed under seal, the same cannot be said of the
23 messages themselves.” *Id.* As filed with this Court, the Harvey Exhibits contain
24 limited redactions necessary to protect the privacy of Plaintiff and other third parties,
25 and to prevent this information from becoming a vehicle for improper purposes.
26
27

1 Plaintiff requests that the Court enter the attached Proposed Order Granting
2 Plaintiff's Application for Leave to File Documents in Opposition to Netflix's
3 Motion to Strike Under Seal.

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5 DATED: September 5, 2024

Respectfully submitted,

6
7 *s/ Brian S. Levenson*

8 By: _____
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